

ORDINANCE No. 2006-01-82

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING AN APPLICATION SUBMITTED BY FERNANDEZ INVESTMENT PROPERTIES, INC. AND RUIZ FORECLOSURES, INC., TO REZONE CERTAIN PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTHWEST 167TH STREET AND NORTHWEST 45TH AVENUE, MORE PARTICULARLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM RU-2 (TWO-FAMILY RESIDENTIAL DISTRICT), TO BU-1A (LIMITED BUSINESS DISTRICT); PROVIDING FOR THE EXECUTION OF A DECLARATION OF RESTRICTIVE COVENANTS AS SHOWN ON EXHIBIT "B" ATTACHED HERETO; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Fernandez Investment Properties, Inc. and Ruiz Foreclosures, Inc. ("Applicants") have filed an application with the City of Miami Gardens to rezone certain property generally located at the Southeast corner of Northwest 167th Street and Northwest 45th Avenue, more particularly described on Exhibit "A" attached hereto, from RU-2 (Two-Family Residential District) to BU-1A (Limited Business District), and

WHEREAS, City staff has reviewed the Applications and is recommending that the City Council approve the Applicants' request, and

WHEREAS, City staff has confirmed that the rezoning complies with the Comprehensive Development Master Plan, and

WHEREAS, a public hearing has been held on this matter, and

WHEREAS, the City Council has reviewed the Applications and approved the same,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. APPROVAL: The City Council for the City of Miami Gardens hereby approves the Application submitted by Fernandez Investment Properties, Inc. and Ruiz Foreclosures, Inc. to rezone certain property generally located at the Southeast corner of Northwest 167th Street and Northwest 45th Avenue, more particularly described on Exhibit "A" attached hereto, from RU-2 (Two-Family Residential District) to BU-1A (Limited Business District).

SECTION 3. DECLARATION OF RESTRICTIONS: The Declaration of Restrictions attached hereto as Exhibit "B" shall be recorded in the Public Records of Miami-Dade County.

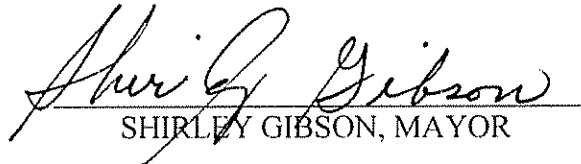
SECTION 4. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 5. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13th DAY OF DECEMBER, 2005.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS ZONING MEETING HELD ON THE 4TH DAY OF JANUARY, 2006.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

Prepared by SONJA KNIGHTON DICKENS, ESQ
City Attorney

SPONSORED BY: DANNY O. CREW, CITY MANAGER

Ordinance No. 2006-01-82

MOVED BY: Vice Mayor Braynon

SECONDED BY: Councilwoman Watson

VOTE: 6-0

Mayor Shirley Gibson

x (Yes) (No)

Vice Mayor Oscar Braynon II

x (Yes) (No)

Councilman Melvin L. Bratton

x (Yes) (No)

Councilman Aaron Campbell

 (Yes) (No) Not present

Councilman Ulysses Harvard

x (Yes) (No)

Councilwoman Sharon Pritchett

x (Yes) (No)

Councilwoman Barbara Watson

x (Yes) (No)

SKD/bfc

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City of Miami Gardens

1515 NW 167th Street, Bldg. 5, Suite 200
Miami Gardens, Florida 33169

Mayor Shirley Gibson
Vice Mayor Oscar Braynon II
Councilman Melvin L. Bratton
Councilman Aaron Campbell
Councilman Ulysses Harvard
Councilwoman Sharon Pritchett
Councilwoman Barbara Watson

MEMORANDUM

To: The Honorable Mayor and City Council
From: Jay Marder, AICP, Development Services Director
Thru: Dr. Danny O. Crew, City Manager
Date: January 4, 2006
Re: Public Hearing for Fernandez Investment Properties, Inc. & Ruiz Foreclosures, Inc. regarding a Rezoning from RU-2 to BU-1A (Second Reading)

Summary

Applicant: Fernandez Investment Properties, Inc. & Ruiz Foreclosures, Inc.
Agent: Eddie Brown
Location: Southeast Corner of NW 167th Street and NW 45th Avenue
Land Area: 19,835 square feet or ± .45 acre (Lots 3 & 4, Block 2 Venetian Acres)
Future Land Use: Industrial and Office
Existing Zoning: RU-2, Two-Family Residential District on Lot 3 & BU-1A, Limited Business District on Lot 4
Requested Action(s):
1. Rezoning of Lot 3 from RU-2, Two-Family Residential District to BU-1A, Limited Business District.

City Council Action

At its December 13th, the City Council passed on first reading the rezoning ordinance.

Recommendation

Note: this is the same recommendation provided to the City Council on December 13th, 2005.

1. Approve an Ordinance granting the rezoning of Lot 3, Block 2 of Venetian Acres from RU-2, Two-Family Residential District to BU-1A, Limited Business District.
2. Accept the proffered Declaration of Restrictions requiring that:
 - i. That a site plan be submitted to and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, the location of structure(s), the

**6A) ORDINANCE
2ND READING
FERNANDEZ & RUIZ
REZONING**

type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details.

- ii. That in the approval of the plan, the same be substantially in accordance with the plans submitted for the hearing entitled "Fernandez Investment Inc. Office and Retail Building," prepared by Red Design Group, dated, received and stamped 11/08/05, and consisting of the following sheets: Site Plan & Ground Floor Plan, Sheet A-1.0; Second Floor Plan, Sheet A-2.0; Third Floor Plan, Sheet A-3.0; Elevations, Sheet A-4.0; Details, Sheet A-5.0; Landscape Plan, Sheet L-1.0; and Landscape Details, Sheet L-2.0.

REVIEW AND ANALYSIS

Neighborhood Land Use Characteristics

Property	Zoning	Existing Use	Future Land Use
Site	BU-1A (West) & RU-2 (East)	Vacant	Low Density Residential
North	GU, Government Property	Palmetto Expressway	Expressway
South	RU-2, Two-Family Residential	Single-Family Dwellings	Low Density Residential
East	RU-2, Two-Family Residential	Church	Low Density Residential
West	BU-1A Limited Business District	Duplexes/ Commercial	Low Density Residential

The subject property consists of two (2) vacant lots (Lot 3 & Lot 4) and is located at the southeast corner of NW 45th Avenue and the South Palmetto Feeder Road (N.W. 167th Street). The easterly lot, Lot 3, is zoned RU-2, Two-Family Residential District. The westerly lot, Lot 4, is zoned BU-1A, Limited Business District. The north side of the site is bounded by the Palmetto Expressway. The area immediately south and along N.W. 45th Avenue is zoned RU-2 and is characterized by duplexes interspersed with some single-family residences. The area east of the subject site along N.W. 167th Street includes a RU-2 zoned parcel that is being used by the Memorial Temple Missionary Baptist Church. Industrially zoned properties further to the east are occupied by some large retail, wholesale showrooms and storage rooms, namely Brandsmart USA and El Dorado Furniture. The area to the west, across from N.W. 45th Avenue and along N.W. 167th Street, is zoned BU-1A and comprises both residential and retail uses.

Consistency with Comprehensive Development Master Plan

In 2004, pursuant to Ordinance 2004-05-21, the City Council granted a small scale amendment to the Future Land Use Map of the Comprehensive Development Master Plan (CDMP) changing the land use designation of the site from Low Density residential to Business and Office. The latter category accommodates the full range of sales and service activities, including, but not limited to, retail, wholesale, commercial and professional offices, hotels, hospitals, and cultural facilities. As per the CDMP, these uses may occur in self-contained centers, high-rise structures, campus parks, municipal central business districts or strips along highways.

The CDMP further states that “in reviewing zoning requests or site plans, the specific intensity and range of uses, and dimensions, configuration and design considered to be appropriate will depend on locational factors, particularly with both adjacent and adjoining uses, and availability of highway capacity, ease of access and availability of other public services and facilities” (Future Land Use Element, Page I-35).

The requested zone change from RU-2 to BU-1A will, pursuant to Policy 4E of Objective 4 of the CDMP’s Goal, provide for consistency between the zoning classification of the property and its current land use designation (Future Land Use Element, Page I-10). This rezoning will also ensure, in accordance with Objective 9 of the CDMP’s Goal, that future development on this site is in keeping with the policies of the CDMP. Last but not least, the three-story office building that the applicant proposes to build on these two (2) lots meets the criteria of being located in an area that is of high intensity land uses and of high activity and accessibility. Based on these findings, the applicant’s request (1) **does not** impact policies of the CDMP and (2) is **consistent** with the CDMP.

Zoning History

On December 14th, 1978, pursuant to Resolution Z-269-78 (attached), the Miami-Dade Board of County Commissioners (BCC) granted a rezoning of a portion of this site (the westerly lot) from RU-2, Two-Family Residential District to BU-1A, Limited Business District.

Analysis and Criteria

Located at the southeast corner of N.W. 45th Avenue and N.W. 167th Street, the subject property consists of two (2) lots with a combined square footage of 19,835 square foot. Per plans submitted and attached hereto, the applicant proposes to build a 4,261-square foot, three-story office building that will feature a parking garage at the first floor level and office space on the second and third floors. Such development is permitted as of right on the BU-1A zoned westerly lot. Consequently, the applicant seeks to rezone the easterly lot (Lot 3) from RU-2, Two-Family Residential District to BU-1A, Limited Business District in order to utilize both lots as the site of the proposed development. Additional off-street parking spaces are to be located in the front of the proposed building and along the easterly and westerly flanks of the property.

Criteria for Rezoning – Section 33-311(A)(8) of the Zoning Code provides authority to the City Council to hear and grant or deny applications for zoning district boundary changes. In evaluating an application for a district boundary change or rezoning, the Council shall take into consideration, among other factors, the extent to which:

- The development permitted by the application, if granted, (1) conforms to the CDMP, (2) is consistent with applicable area or neighborhood studies or plans, and (3) would serve a public benefit warranting the granting of the application at the time it is considered;

- The development permitted by the application, if granted, will efficiently use or unduly burden water, sewer, solid waste disposal, recreation, education, and other necessary public facilities which have been constructed or planned and budgeted for construction;
- The development permitted by the application, if granted, will efficiently use or unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways;
- The development permitted by the application, if granted, will have a favorable or unfavorable impact on the environmental and natural resources of the City of Miami Gardens, including consideration of the means and estimated cost necessary to minimize the adverse impacts; the extent to which alternatives to alleviate impacts may have a substantial impact on the natural and human environments; and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.

This application involves the rezoning of a vacant lot in order to construct a three-story office building. As mentioned above, the surrounding areas include various retail and wholesale uses. As such, the requested rezoning will be **compatible** with the adjacent developments. Additionally, no detrimental impact on natural resources and no undue burden on water, sewer, solid waste disposal, recreation, education, or other necessary public facilities, including mass transit, roads, streets and highways, will result from this rezoning and the proposed office building development. The approval of this application will not be contrary to the public interest, and will **not** have a **detrimental impact** on the adjoining developments.

Based upon these findings the applicant's request (1) is in keeping with the spirit of the policies of the CDMP; (2) will maintain the basic intent and purpose of the Zoning Code and (3) will not impact negatively the stability and character of the area. Pursuant to Section 33-311(A)(8), **approval** is recommended for the requested zone change from RU-2, Two-Family Residential District to BU-1A, Limited Business District.

Proffered Declarations of Restrictions

In furtherance of the Comprehensive Development Master Plan Goals, Objectives and Policies, the Zoning Code and other applicable City provisions, and based upon the findings of facts contained herein, the applicant has proffered the following Declaration of Restrictions:

1. That a site plan be submitted to and meet with the approval of the City upon the submittal of an application for a building permit and/or Certificate of Use and Occupancy; said plan to include among other things, the location of structure(s), the type(s), size(s) and location of sign(s), lighting standards, off-street parking areas, exit and entrance drive(s), perimeter walls or fences and the landscaping details.

2. That in the approval of the plan, the same be substantially in accordance with the plans submitted for the hearing entitled "Fernandez Investment Inc. Office and Retail Building," prepared by Red Design Group, dated, received and stamped 11/08/05, and consisting of the following sheets: Site Plan & Ground Floor Plan, Sheet A-1.0; Second Floor Plan, Sheet A-2.0; Third Floor Plan, Sheet A-3.0; Elevations, Sheet A-4.0; Details, Sheet A-5.0; Landscape Plan, Sheet L-1.0; and Landscape Details, Sheet L-2.0.

Anticipated Facilities Impact

General: Concurrency determinations are not finalized during the zoning approval process.

Water and Sewer: Central water and central sewer services are available to this site through the Miami-Dade County's Water and Sewer Department (WASD), and connection shall be required.

Drainage/Water Management: Per code requirements, all stormwater runoff must be retained on site utilizing properly designed infiltration or seepage type system. Drainage must be provided for the 5-year storm event with full on-site retention of the 25-year/3-day storm. Pollution Control devices shall be required at all drainage inlet structures. Site grading and development shall comply with the requirements of Chapter 11C of the Code of the Miami-Dade County.

Traffic Circulation: According to the Traffic Engineering Division of the Miami-Dade County's Public Works Department, the proposed development will generate **11 AM Daily Peak Hour Vehicle Trips** and **56 PM Daily Peak Hour Vehicle Trips** on the area roadways, namely N.W. 45th Avenue and N.W. 167th Street. Said trips will have a de minimis impact on existing LOS or traffic conditions of same, which are currently at LOS "B" and "C."

Education: There is no impact upon education facilities for nonresidential uses.

This recommendation to approve the applicants' requests does not constitute a final development order; one or more concurrency determinations will subsequently be required.

Attachments:

- Letter of Intent
- Hearing Map-Zoning
- Hearing Map-Aerial
- Mailed Notice Radius Map
- Plans
- Resolution Z-269-78
- Miami Gardens Proposed Ordinance
- Proffered Declaration of Restrictions

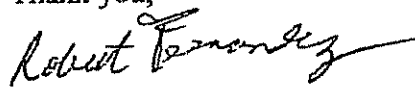
LETTER OF INTENT

FERNANDEZ INVESTMENT PROPERTIES

City Of Miami Gardens
Planning & Zoning Department
1515 N.W. 167 Street Suite 170 Bldg. 4
Miami Gardens, Florida 33054

This LETTER OF INTENT is my formal request for a zoning change from RU-2 to BU-1A for my undeveloped property located at the southwest corner of 44th court and N.W. 167 street. The folio number is 34-2117-002-0320. The project will be an office building.

Thank you,



Robert Fernandez

Public Hearing
Rec 9-15-05
BE.

HEARING MAP-ZONING